

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	03cr813 (DLC)
	:	
ERIC KLEIN,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

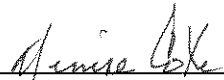
On May 27, 2022, Eric Klein submitted his annual request for leave to file a motion for postconviction relief from his 2005 criminal conviction. The request was made pursuant to this Court's April 27, 2021 Order and complies with the conditions set forth in that Order, but it is denied as meritless.

Klein's filing appears to indicate that he wishes to file a motion alleging that it was inappropriate for the Government to pursue both civil and criminal proceedings against him. But "[n]othing in the Constitution forbids contemporaneous civil and criminal proceedings concerning the same subject matter," Nosik v. Singe, 40 F.3d 592, 596 (2d Cir. 1994), and Klein points to no defect in the Government's conduct during those proceedings that would render his conviction invalid. Accordingly, it is hereby

ORDERED that Klein's May 21, 2021 request for leave to file a motion challenging his 2005 criminal conviction is denied. To the extent that this Order qualifies as "the final order in a proceeding under [28 U.S.C. § 2255]," 28 U.S.C. § 2253(c)(1)(B), petitioner has not made a substantial showing of a denial of a federal right and, therefore, a certificate of appealability shall not be granted. Hoffler v. Bezio, 726 F.3d 144, 154 (2d Cir. 2013); Tankleff v. Senkowski, 135 F.3d 235, 241 (2d Cir. 1998); Rodriguez v. Scully, 905 F.2d 24, 24 (2d Cir. 1990). Pursuant to 28 U.S.C. § 1915(a)(3), any appeal from this Order would not be taken in good faith. Coppedge v. United States, 369 U.S. 438, 445 (1962).

IT IS FURTHER ORDERED that the Clerk of Court shall mail a copy of this Order to Klein and note mailing on the docket.

Dated: New York, New York
June 2, 2022



DENISE COTE
United States District Judge